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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,816	01/13/2004	William D. Zerwekh	2292C-2	5413

7590 07/19/2004

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EXAMINER
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RAYMOND, EDWARD

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/757,816

Applicant(s)

ZERWEKH ET AL.

Examiner

Edward Raymond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. **Claim 10** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Both claims 8 and 10 depend from claim 1 and are claiming identical limitations.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-4, 7, 12, 13, 15, 19, 20, 23, 28, and 31-33** are rejected under 35 U.S.C. 102(b) as being anticipated by Johnston. Johnston teaches a method for detecting and monitoring noncompliant interstate transportation of a material (Claims 1, 12, 15, 23, and 28: see col. 3, line 66 through col. 4, line 16), the method comprising the steps of (a) providing a detection and monitoring network whereby multiple ports-of-entry are each equipped with a detection system that is in communication with a central computer (Claims 1, 12, 15, 23, and 28: see col. 4, lines 54-65); (b) using the detection systems to detect levels of the material in vehicles passing through each of the ports-of-entry (Claims 1, 12, 15, 23, and 28: see col. 4, line 29-31); (c) associating the levels of material detected for each vehicle with the respective vehicle (Claims 1, 12,

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15, 23, and 28: see col. 1, lines 36-40: The Examiner notes that the reference inherently teaches an association of the levels detected from each vehicle passing through the scan area as noted in the background of the reference); (d) saving the vehicle material levels on a computer (Claims 1, 12, 15, 23, 28, and 33: see col. 4, 59-64: The Examiner notes that all microprocessor based computers comprise memory and/or a storage input device); and (e) uploading the vehicle material levels detected at each port-of-entry to the central computer for monitoring and review (Claims 1, 12, 15, 16, 23, and 28: see col. 4, lines 58-59).

Johnston teaches a method wherein step (b) further includes the step of using the detection systems to detect levels of radiation (Claims 2 and 20: see col. 4, lines 2-4).

Johnston teaches a method wherein step (c) further includes step of saving the detected levels of material for each vehicle in an electronic file (Claims 3, 13, and 31: see col. 4, 59-64: The Examiner notes that all microprocessor based computers comprise memory and/or a storage input device).

Johnston teaches a method wherein step (c) further includes step of when the radiation levels exceed a predetermined threshold, issuing an alarm to alert an operator (Claims 4 and 15: see col. 6, lines 16-28).

Johnston teaches a method wherein the detector systems further include a controller that receives a stream of detected data from the detector systems (Claims 7 and 19: see col. 4, lines 54-59), step (c) further including steps of (i) providing the computer with a software application for extracting the stream of detector data from the

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controller (Claim 7: see col. 4, lines 59-63: The Examiner notes that the reference inherently comprises a software application for disseminating the received radiation levels, since a microprocessor computer requires a user interface), (ii) associating the detector data with respective vehicles (Claim 7: see col. 1, lines 36-40: The Examiner notes that the reference inherently teaches an association of the levels detected from each vehicle passing through the scan area as noted in the background of the reference), and (iii) saving the data in a file (Claims 7 and 15: see col. 4, 59-64: The Examiner notes that all microprocessor based computers comprise memory and/or a storage input device).

Johnston teaches a method for detecting and monitoring noncompliant interstate transportation of radioactive materials, the method comprising wherein each detection system includes detector assemblies for detecting radiation located on each side of a vehicle pass through (Claim 28: see Figure 1: Detectors 12); periodically requesting by the computer radiation data from the controller (Claim 28: see col. 5, lines 16-21: The Examiner notes that the radiation is detected when a vehicle enters the scan region, thus requesting data periodically); converting the radiation data into radiation levels and displaying the radiation levels (Claim 28: see col. 4, lines 59-62); and detecting when a vehicle is detected between the detector assemblies (Claim 28: see col. 4 line 66 through col. 5, line 6).

Johnston teaches a method wherein step (f) further includes the step of comparing a geometric mean of the detectors and a calculation of a vehicle surface

reading with the predetermined threshold (Claim 32: see col. 6, line 38 through col. 7, line 5).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 5, 14, 15, 23, 24, and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston in view of Peterson et al. As noted above, Johnston teaches all of the features of the claimed invention, except a method of wherein step (c) further includes step of taking pictures of identification markings on the vehicle using a digital camera, and uploading the pictures with the file to the central computer. Peterson teaches a digital camera (Claims 5, 14, 15, and 23: see col. 9, lines 1-3). It would have been obvious to the person having ordinary skill in the art at the time the

invention was made to modify Johnston to use a digital camera, as taught by Peterson et al., because this would allow for the identification of the vehicle not in compliance with the law and provide means for tracking the offender.

As noted above, Johnston teaches all of the features of the claimed invention, except a server-based detection and monitoring network, comprising a central server for maintaining a national database for vehicles, wherein each vehicle is identified by an identification number; an identification mark located on vehicles in a standard position, the identification mark including the vehicle's identification number. Peterson et al. teach a server-based detection and monitoring network (Claim 23: see col. 4, lines 13-20), comprising a central server for maintaining a national database for vehicles, wherein each vehicle is identified by an identification number (Claims 23, 24, and 31: col. 9, lines 29-47: The Examiner notes that current registration system of vehicles comprising the license plate and/or the Vehicle Identification Number teach this limitation); an identification mark located on vehicles in a standard position, the identification mark including the vehicle's identification number (Claims 23 and 31: see col. 4, lines 23-26). It would have been obvious to the person having ordinary skill in the art at the time the invention was made to modify Johnston to include such an accounting system, as taught by Peterson, because this would allow for the identification and tracking of vehicles not in compliance with the laws for transporting material.

7. **Claims 6, 14, 15, and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston in view Raj. As noted above, Johnston teaches all of the

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features of the claimed invention, except a method wherein step (c) further includes step of scanning the vehicle's shipping documents, and uploading the scanned documents with the file to the central computer. Raj teaches scanning a vehicle to obtain information regarding the shipper and the contents being transported (Claim 4: see col. 8, line 58 through col. 9, lines 12). It would have been obvious to the person having ordinary skill in the art at the time the invention was made to modify Johnston to scan and upload a shipping file to a central computer, as taught by Raj, because this would allow for information to be obtained about the contents of a transporting vehicle automatically and remotely.

8. **Claims 8-11, 16-18, 25-27, and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston. As noted above, Johnston teaches all of the features of the claimed invention, except a method further including step of allowing a government agency to control the central computer (Claims 8, 10, 11, 16-18, and 25-27: The Examiner notes that the Environmental Protection Agency and the Department of Transportation are government agencies). The Examiner notes it is well known in the art to provide emissions data to a government entity, e.g., Virginia's emission inspection system. Therefore, it would be obvious to the person having ordinary skill in the art at the time the invention was made to modify Johnston to allow a government agency such control, because government agencies are delegated with the responsibility of monitoring the enforcement of unsafe emissions and/or the transportation of dangerous materials.



As noted above, Johnston teaches all of the features of the claimed invention, except a method wherein step (a) further includes step of locating the multiple ports-of-entry in multiple states to create a regional or national network, wherein the multiple ports-of-entry report to a regional or federal agency (Claims 9, 11, 17, and 18). The Examiner notes that it is common knowledge to create a regional or national network for an interstate highway and that it is not novel to create a network at pre-existing ports-of-entry. Therefore, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to modify Johnston to create a regional or national network, because state and national borders provide an obvious foundation for creating a network.

As noted above, Johnston teaches all of the features of the claimed invention, except a method wherein step (c) further includes the step of receiving the radiation data as a stream of characters (Claim 29). The Examiner notes that its common knowledge to send measured signals in the form of digital data. Therefore, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to modify Johnston to receive data in such a manner, because this is a well known design choice.

9. **Claims 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston in view of Gozani et al. As noted above, Johnston teaches all of the features of the claimed invention, except a detector system that detects bombs and/or drugs. Gozani et al. teach such a system (Claim 21 and 22: see col. 9, lines 6467 and col. 10, lines 35-38). It would have been obvious to the person having ordinary skill in

the art at the time the invention was made to modify Johnston to use this system for bombs and drugs, as taught by Gozani et al., because this would allow for the detection of contraband on interstate highways transported by terrorist, enemies of the United States, and/or drug traffickers with the intent of causing criminal harm.

10. **Claim 35** is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston in view of Slivka et al. As noted above, Johnston teaches all of the features of the claimed invention, except a method wherein step (h) further includes the step of (i) requiring that the computer for dial the central computer and hanging up after communication is made; and (ii) in response, the remote computer calls back the computer, and appears as a disk drive on the computer, thereby allowing the operator of the computer to drag-and-drop selected files and folders to the central computer. Slivka teaches such an operator interface that communicates with a computer and allows for icons to represent a hard drive (Claim 35: see Figure 7: Drive C). It would have been obvious to the person having ordinary skill in the art at the time the invention was made to modify Johnston to use such an operator interface, as taught by Slivka et al., because this would provide a user friendly windows-like interface for the site operator of this system.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hussein et al. teach a detection of concealed explosives and contraband. Gomberg teaches a method and apparatus for the noninvasive interrogation of objects. Neale et al. teach a material identification using x-rays.

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Nelson et al. teach a high-resolution device and method for imaging concealed objects within an obscuring medium. Levine teaches a lethal weapon detection process. Bishop et al. teach an apparatus for remote analysis of vehicle emissions. Stedman et al. teach an apparatus for remote analysis of vehicle emissions. Jack et al. teach optical sensing apparatus for remotely measuring exhaust gas composition of moving motor vehicles. Jack et al. also teaches systems and methods for determining compliance of moving vehicles with emission-concentration standards. Deegan teaches a passive and missile detection device. Nelson et al. teach a laser system for cross-road measurement of motor vehicle exhaust gases. Saban teaches tracking system that includes means for early target detection.

#### ***Contact Information***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Raymond whose telephone number is 703-308-6235. The examiner can normally be reached on Monday through alternating Friday between 8:00 AM and 5:30 PM.

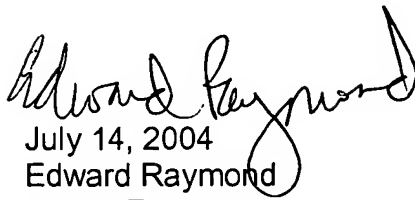
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0956 for regular communications and 703-308-0956 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

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A handwritten signature in cursive script, appearing to read "Edward Raymond". The signature is written in black ink and is positioned above the printed name.

July 14, 2004

Edward Raymond

Patent Examiner

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